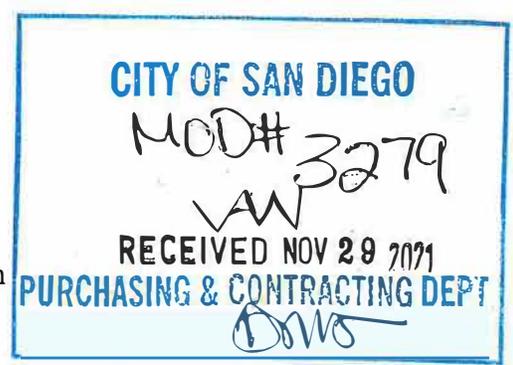


Purchasing and Contracting Department
Sole Source Request and Certification Form



To: Director of Purchasing and Contracting
Cc: Deputy Chief Operating Officer, General Services
From: Staci Domasco, Senior Planner, Public Utilities Department
Date: November 8, 2021

In alignment with the guidance provided in the San Diego Municipal Code section 22.3016, the Purchasing Agent (Director of Purchasing and Contracting) must certify that the award of a sole source contract is necessary by memorializing in writing why strict compliance with a competitive process would be unavailing or would not produce an advantage, and why soliciting bids or proposals would therefore be undesirable, impractical, or impossible.

For consideration, this form must be completed and all required accompanying information must be submitted together, including any related contracts. Failure to do so will result in a delay of approval of the request.

Describe commodity or service(s) to be purchased. Include vendor contact information.

The City approved sole source #3279 on October 3, 2017 with Dr. David Victor to provide professional consulting services for the San Vicente Pumped Storage hydroelectric project.

The San Vicente Pumped Storage Project is a highly technical project and the power industry is a highly regulated environment. Dr. Victor is an expert in the natural gas and electric power market, and in climate-change policy. His specialized knowledge and expertise in the industry are required to assist the City during the feasibility study, and project development and negotiations with regulators to advance a potential public-private partnership business model and to successfully complete a complex permitting process. Soliciting proposals to continue with this project would be impractical as no other consultant has the credentials or expertise comparable to Dr. Victor. He is uniquely qualified to continue to provide specialized and reliable assistance to the City.

In June 2015, the First Amendment to the Agreement for Consultant Services for Energy Market Expert Review with Dr. David Victor, extended the duration of the services through December 31, 2016 and increased the contract by \$100,000, bringing the total not to exceed amount to \$240,000.

In January 2017, the Second Amendment to the Agreement for Consultant Services for Energy Market Expert Review with Dr. David Victor, extended the duration of the services through December 31, 2017.

An Ordinance (O-20913) of the Council of the City of San Diego Authorizing a Third Amendment to the Agreement with Dr. David Victor for Energy Market Expert Review Services, extended the duration of the services through August 22, 2022 and increased the contract by \$240,000, bringing the total not to exceed amount to \$480,000.

The Public Utilities Department is currently requesting to extend the contract three (3) additional years through August 22, 2025 and to increase the contract amount by \$200,000, raising the not-to-exceed amount from \$480,000 to \$680,000.

Vendor Contact:
Dr. David Victor
david.victor@ucsd.edu
(858) 534-3254

Justification

1. This product or service is available from only one supplier and meets at least one of the following criteria (please check all that are applicable):

- One-of-a-kind/Compatibility*
- a. Required by Warranty: the product matches existing equipment, infrastructure and is required by warranty. (A letter from the provider which supports this claim must be provided.)
- b. Goods and Services:
- i. the good has no competitive product or alternative on the market.
- ii. the service requires a special skill, ability, or expertise linked to the current project that cannot be provided by another supplier.

(Documentation in support of either of the above claims must be provided by the requesting department.)

- City Standards*

The product or service complies with established, existing City standards.

- Replacement*

The product or service is the only compatible replacement component that supports a larger system. Or, the services are the only ones that can replace the existing service requirements.

2. Do any of the following situations exist?

- Limited Competition*

Department made an attempt to find a second or multiple sources to no avail.

- Emergency*

There is an urgent need for the item or service and time does not permit the City to solicit for competitive bids, as in the cases of emergencies as defined under SDMC section 22.3208,. (Delays in solicitation do not satisfy this criteria)

Cost/Market Analysis

Purchasing and Contracting will perform due diligence on each request. If Purchasing and Contracting can find a suitable, cost effective alternative, this request will be denied and that alternative will be pursued after your department has been contacted to discuss the revised determination.

This form does not take the place of an agreement and all sole source requests for a period of one year or longer will require the **submission of an agreement**. The requesting department must submit a purchase requisition and a copy of this certification to Purchasing and Contracting for a Purchase Order to be issued.

PCO Due Diligence (PCO to initial all that apply)

____ Proof of warranty or maintenance requirement for standardized and replacement items confirmed.

____ Vendor/Supplier confirmed submission of justification letter.

____ Market test confirmed that there is no advantage to the City in competing this contracting opportunity to multiple vendors.

____ Emergency verified with the department.

VD Pricing agreement has been reviewed.

VD Purchasing and Contracting has reviewed this request and affirms that this request for a sole source justification is appropriate.

This sole source is approved for:

One (1) year from the signature date below.

For the entire length of the contract, but not more than five (5) years.

The length of the contract must be consistent with the sole source approval. A sole source request must be submitted and approved by the Purchasing and Contracting Director prior to the award of each new contract and prior to each extension of an existing contract that was not contemplated in the initial contract term.

____ After reviewing the provided information and due diligence, I cannot recommend the approval of this request.

Purchasing and Contracting Director Review

I certify that strict compliance with a competitive process would be unavailing or would not produce an advantage, and that soliciting bids or proposals would be therefore undesirable, impracticable or impossible. My approval is contingent on the information provided in this form.

In accordance with SDMC §22.3016, this request is approved.

Based on the information provided and due diligence recommendation of staff, this request is denied.



Claudia C. Abarca, Director, Purchasing and Contracting

December 19, 2021

Date

ORIGINAL

FOURTH AMENDMENT TO AGREEMENT

This Fourth Amendment to the *Energy Market Expert Review Services Regarding the San Vicente Hydroelectric Pumped Storage Project* dated August 22, 2014 [Agreement], is hereby entered into by and between the City of San Diego [City], a municipal corporation, and Dr. David Victor [Consultant].

RECITALS

- A. The City and Consultant [collectively referenced herein as the “Parties”] entered into the Agreement, to provide expert review services for *the Energy Market Expert Review Services Regarding the San Vicente Hydroelectric Pumped Storage Project* [Project];
- B. The City and the Consultant executed the First Amendment to the Agreement to increase the compensation amount to \$240,000, and to extend the contract duration until December 2016;
- C. The City and the Consultant executed the Second Amendment to the Agreement to extend the contract duration until December 31, 2017;
- D. The City and the Consultant executed the Third Amendment to the Agreement to increase the compensation amount from \$240,000 to \$480,000, and to extend the contract duration until August 22, 2022;
- E. The City desires to execute a Fourth Amendment to the Agreement to increase the compensation amount from \$480,000 to \$680,000, and to extend the contract duration until August 22, 2025;
- F. Consultant desires to provide the services required under this Fourth Amendment.

DOCUMENT NO. 00-21435
FILED FEB 15 2022
OFFICE OF THE CITY CLERK
SAN DIEGO, CALIFORNIA

DV

NOW, THEREFORE, in consideration of the Recitals stated above and incorporated herein by this reference and the mutual obligations of the Parties expressed herein, the Parties agree to modify the Agreement, which is incorporated herein by reference, as follows:

1. DELETE Section 2.1 in its entirety and REPLACE with the following:

“2.1 Term of Agreement. This Agreement shall be effective on the date it is executed by the last Party to sign the Agreement, and approved by the City Attorney in accordance with the San Diego Charter Section 40, unless otherwise terminated, until completion of the Scope of Services **or August 22, 2025**”.

2. DELETE Section 3.1 in its entirety and REPLACE with the following:

“3.1 Amount of Compensation. The City shall pay the Consultant for performance of all Professional Services rendered in accordance with this Agreement, including reasonably related expenses, for a total contract amount not exceeding **\$680,000.00**. The compensation for the Scope of Services shall not exceed \$670,000.00, and the compensation for Additional Services (described in Section 3.2), if any, shall not exceed \$10,000.00.”

3. DELETE Revised Exhibit C-2 – Time Schedule in its entirety and REPLACE with Exhibit C-3.

The Parties agree that this Fourth Amendment to the Agreement represents the entire understanding of the Consultant and the City and affects only those paragraphs referred to, and all other terms and conditions of the Agreement remain in full force and effect.

REMAINDER OF PAGE INTENTIONALLY LEFT BLANK

IN WITNESS WHEREOF, this Fourth Amendment to the *Energy Market Expert Review Services Regarding the San Vicente Hydroelectric Pumped Storage Project* is executed by the City of San Diego acting by and through its Mayor, or his designee, pursuant to Ordinance No. O-21435 authorizing such execution, and by the Consultant.

THE CITY OF SAN DIEGO

Mayor or Designee

By: [Signature] Director, Purchasing & Contracting

Date: April 5, 2022

DR. DAVID VICTOR

By: [Signature]
Name: David Victor
Title: Self
Date: 9 Dec '21

I HEREBY APPROVE the form of the foregoing Amendment on this 5th day of April, 2022

MARA W. ELLIOT, City Attorney

By: [Signature]
Raymond E. Palmucci
Deputy City Attorney

Item 50
02/15/2022

(O-2022-80)

ORDINANCE NUMBER O- 21435 (NEW SERIES)

DATE OF FINAL PASSAGE FEB 24 2022

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SAN DIEGO AUTHORIZING A FOURTH AMENDMENT TO THE AGREEMENT WITH DR. DAVID VICTOR FOR ENERGY MARKET EXPERT REVIEW SERVICES REGARDING THE SAN VICENTE HYDROELECTRIC PUMPED STORAGE PROJECT.

WHEREAS, in October of 2013, the City of San Diego (City) and the San Diego County Water Authority entered into a Memorandum of Understanding for the procurement of professional services to study the feasibility and economic viability for construction of a large hydropower project, the San Vicente Hydroelectric Pumped Storage Project (Project); and

WHEREAS, the City requires continued expertise to understand the regulatory process, pricing, supply – and – demand dynamics, financing options and operational issues related to the Project, and this expertise will enable the City to achieve its goal of minimizing financial risks and maximizing revenue opportunities for the ratepayers through a well-negotiated public-private partnership agreement; and

WHEREAS, the San Diego Public Utilities Department submitted a Sole Source request which was approved by the San Diego Purchasing and Contracting Department on July 1, 2014, to enter into an agreement for Consultant Services for Energy Market Expert Review (Agreement) with Dr. David Victor, a UCSD professor uniquely qualified to bring a critically important, objective third – party evaluation to mitigate the risks associated with a Project of this scope, complexity, and expense; and

WHEREAS, in June 2015, the First Amendment to the Agreement, extended the duration of the services through December 31, 2016 and increased the contract by \$100,000, bringing the total not to exceed amount to \$240,000; and

WHEREAS, in January 2017, the Second Amendment to the Agreement extended the duration of the services through December 31, 2017; and

WHEREAS, in January 2018, the Third Amendment to the Agreement extended the duration of the services through August 22, 2022 and increased the amount by \$240,000, bringing the total not to exceed amount of the Agreement to \$480,000; and

WHEREAS, this Fourth Amendment to the Agreement with Dr. David Victor will extend the duration of the services through August 22, 2025 and increase the amount by \$200,000, bringing the total not to exceed amount of the Agreement to \$680,000; and

WHEREAS, under Charter section 99, no contract, agreement, or obligation extending for a period of more than five years may be authorized except by Ordinance approved by a two-thirds majority vote of the City Council; NOW, THEREFORE,

BE IT ORDAINED, by the Council of the City of San Diego, as follows:

Section 1. That the Mayor, or his designee, is authorized to execute the Fourth Amendment to the Agreement with Dr. David Victor, for the Energy Market Expert Review Consulting Services, in an amount not to exceed \$200,000, bringing the total not to exceed amount of the Agreement to \$680,000, and to extend the contract term to August 22, 2025, under the terms and conditions set forth in the Fourth Amendment, on file in the Office of the City Clerk as Document No. OO- 21435 .

Section 2. That the Chief Financial Officer is authorized to expend an amount not to exceed \$200,000 from 700011, Water Utility Operating Fund, for the purpose of executing this Agreement, contingent upon the adoption of the Appropriation Ordinance for the applicable fiscal years, and contingent upon the Chief Financial Officer first furnishing one or more

certificates certifying that funds necessary for expenditure are, or will be, on deposit with the City Treasurer.

Section 3. That a full reading of this ordinance is dispensed with prior to passage, a written copy having been made available to the Council and the public prior to the day of its passage.

Section 4. That this ordinance shall take effect and be in force on the thirtieth day from and after its final passage.

APPROVED: MARA W. ELLIOTT, City Attorney

By /s/ Raymond C. Palmucci
Raymond C. Palmucci
Deputy City Attorney

RCP:cw
01/21/22
Or.Dept: Public Utilities Dept.
CC No.: N/A
Doc. No.: 1643155_2

I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at this meeting of FEB 15 2022.

ELIZABETH S. MALAND
City Clerk

By Connie Patterson
Deputy City Clerk

Approved: 2/24/22
(date)

Todd Gloria
TODD GLORIA, Mayor

Vetoed: _____
(date)

TODD GLORIA, Mayor

Passed by the Council of The City of San Diego on FEB 15 2022, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Joe LaCava	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jennifer Campbell	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Stephen Whitburn	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Monica Montgomery Steppe	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Marni von Wilpert	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Cate	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Raul A. Campillo	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Vivian Moreno	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sean Elo-Rivera	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage FEB 24 2022.

AUTHENTICATED BY:

TODD GLORIA

Mayor of The City of San Diego, California.

(Seal)

ELIZABETH S. MALAND

City Clerk of The City of San Diego, California.

By Connie Patterson, Deputy

I HEREBY CERTIFY that the foregoing ordinance was not finally passed until twelve calendar days had elapsed between the day of its introduction and the day of its final passage, to wit, on

JAN 31 20 22

, and on FEB 24 2022.

I FURTHER CERTIFY that said ordinance was read in full prior to passage or that such reading was dispensed with by a vote of five members of the Council, and that a written copy of the ordinance was made available to each member of the Council and the public prior to the day of its passage.

(Seal)

ELIZABETH S. MALAND

City Clerk of The City of San Diego, California.

By Connie Patterson, Deputy

Office of the City Clerk, San Diego, California

Ordinance Number O- 21435

Passed by the Council of The City of San Diego on February 15, 2022, by the following vote:

YEAS: LACAVA, CAMPBELL, WHITBURN, MONTGOMERY STEPPE, VON WILPERT, CATE, CAMPILLO, MORENO, & ELO-RIVERA.

NAYS: NONE.

NOT PRESENT: NONE.

RECUSED: NONE.

AUTHENTICATED BY:

TODD GLORIA

Mayor of The City of San Diego, California

ELIZABETH S. MALAND

City Clerk of The City of San Diego, California

(Seal)

By: Connie Patterson, Deputy

I HEREBY CERTIFY that the above and foregoing is a full, true, and correct copy of ORDINANCE NO. O-21435 (New Series) of The City of San Diego, California.

I FURTHER CERTIFY that said ordinance was not finally passed until twelve calendar days had elapsed between the day of its introduction and the day of its final passage, to wit, on January 31, 2022, and on February 24, 2022.

I FURTHER CERTIFY that said ordinance was read in full prior to passage or that such reading was dispensed with by a vote of five members of the Council, and that a written copy of the ordinance was made available to each member of the Council and the public prior to the day of its passage.

ELIZABETH S. MALAND

City Clerk of The City of San Diego, California

(SEAL)

By: Connie Patterson Deputy